

CHAPTER NO. 803

HOUSE BILL NO. 2693

By Representatives Head, Rinks, White, Ridgeway, Newton

Substituted for: Senate Bill No. 2399

By Senator Haun

AN ACT to amend Tennessee Code Annotated, Title 55, relative to movements of manufactured homes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-4-401, is amended by adding the words "manufactured home, portable modular unit" immediately after the words "mobile home".

SECTION 2. Tennessee Code Annotated, Section 55-4-402, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-4-402. "Mobile home" for the purposes of this part means:

(1) A self-propelled or non-self-propelled vehicle, with a length exceeding thirty-five feet (35'), so designed, constructed, reconstructed or added to by means of accessories in such manner as will permit the use thereof for human habitation, and so constructed to permit its being used as a conveyance upon public streets or highways; or

(2) Manufactured houses or portable modular units in excess of eight feet six inches (8'6") in width or when towing vehicle and manufactured home are in excess of sixty feet (60') in length.

SECTION 3. Tennessee Code Annotated, Section 55-4-403, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-4-403.

(a) Transport of mobile homes shall only take place between sunrise and sunset, Monday through Saturday, except for legal holidays as enumerated in § 15-1-101.

(b) Notwithstanding the provisions of subsection (a), transport of mobile homes eighty-five (85) feet or greater in length, or fourteen (14) feet or greater in width, or fourteen feet two inches (14'2") or greater in height, is prohibited in heavily traveled urban areas between the hours of seven o'clock a.m. (7:00 a.m.) to nine o'clock a.m. (9:00 a.m.) and four o'clock p.m. (4:00 p.m.) to six o'clock p.m. (6:00 p.m.).

(c) Notwithstanding any provision of law to the contrary, this section may be enforced using photo, video or other electronic proof of violation.

SECTION 4. Tennessee Code Annotated, Section 55-4-404, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-4-404. Any permit required under this part shall be issued in the name of the owner of the vehicle or the motor carrier used to transport the mobile home. The permit shall be displayed in the vehicle used to transport the mobile home so as to be visible from outside the vehicle and shall be produced for inspection upon request by a representative of any law enforcement agency. Short-term permits shall be valid for six (6) days from the date of issuance. Annual permits shall be valid for three hundred sixty-five (365) days from the date of issuance.

SECTION 5. Tennessee Code Annotated, Section 55-4-405, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-4-405.

(a) A permit shall be required for the transport of any mobile home exceeding sixty feet (60') in length, including towing vehicle, except for vehicles being transported under an annual width permit, in which case a permit shall be required for the transport of any mobile home exceeding ninety feet (90') in length, including towing vehicle. Permits issued pursuant to this section shall be issued on a single trip basis.

(b) The fee for such permit shall be twenty-five dollars (\$25.00).

SECTION 6. Tennessee Code Annotated, Section 55-4-406, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-4-406.

(a) A permit shall be required for the transport of any mobile home exceeding eight feet six inches (8'6") in width. Transport of mobile homes exceeding 16 feet (16') in width shall not be permitted. Permits authorized pursuant to this section may be issued on either a short-term basis or an annual basis. Short-term permits shall be valid for six (6) days from the date of issuance. Annual permits shall be valid for three hundred sixty-five (365) days from the date of issuance.

(b) The fee schedule for permits issued pursuant to this section shall be as follows:

(1) For short-term, eight feet six inches (8'6") to fourteen feet (14') wide - fifty dollars (\$50.00);

(2) For short-term, eight feet six inches (8'6") wide to sixteen feet (16') wide - one hundred dollars (\$100.00);

(3) For annual permit, eight feet six inches (8'6") to fourteen feet (14') wide - one thousand dollars (\$1,000.00);

(4) For annual permit, eight feet, six inches (8'6") to sixteen feet (16') wide - two thousand dollars (\$2,000.00).

SECTION 7. Tennessee Code Annotated, Section 55-4-407, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-4-407.

(a) A permit shall be required for the transport of any mobile home exceeding fourteen feet two inches (14'2") in height. Permits authorized pursuant to this section shall be issued on a short-term basis only and shall be accompanied by special routing instructions approved by the department of transportation.

(b) The fee for permits issued pursuant to this section shall be fifty dollars (\$50.00).

(c) The department of transportation shall make available, both in printed form and on the department's official web site, a list of the overpasses on public roads within the state that have a minimum clearance above the roadway below of less than fourteen feet six inches (14' 6"). The list shall be updated at least monthly on the web site and at least annually in the printed version. The department is authorized to charge a fee for the printed list sufficient to offset the administrative cost of compiling, updating, printing and shipping the list.

SECTION 8. Tennessee Code Annotated, Section 55-4-408, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-4-408. Transport of mobile homes shall be subject to the provisions of § 55-7-205 pertaining to excess weight.

SECTION 9. Tennessee Code Annotated, Section 55-4-409, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-4-409. A permit is required for each category of size (height, width, length and/or weight) that is exceeded by the mobile home being transported, except as provided in § 55-4-405.

SECTION 10. Tennessee Code Annotated, Section 55-4-410, is amended by deleting the section in its entirety and by substituting instead the following:

Section 55-4-410.

(a) The department of transportation is authorized to promulgate rules and regulations prescribing safety precautions and equipment to be utilized by those transporting mobile homes subject to the provisions of this part.

(b) The transporter and the seller of the mobile home, if the seller is a different person or entity than the transporter, moving a mobile home that is subject to the provisions of this part shall have the affirmative duty to determine that:

(1) The undercarriage for the manufactured home is equipped with adequate brakes that are operated from the towing vehicle; and

(2) The route traveled allows safe passage of the mobile home, based upon the height and width of the mobile home.

(c) The affirmative duty created pursuant to the provisions of this section shall be primarily the transporter's duty. The seller shall be secondarily liable. The affirmative duty to determine the safe passage may be met by use of a front escort vehicle having protrusions equal to the height and width of the mobile home.

SECTION 11. Tennessee Code Annotated, Title 55, Chapter 4, Part 4, is amended by adding the following language as a new, appropriately designated section:

Section 55-4-411.

(a) This part shall be administered by the department of transportation, which is authorized to promulgate rules and regulations for the administration of this part.

(b)

(1) The department of transportation shall issue to all annual permit holders a placard bearing the applicable permit number and a telephone number to be used to report unsafe or erratic driving to the department of transportation. Such placard shall be designed by the department of transportation in consultation with the department of safety. The transporter of a manufactured home under an annual permit shall prominently display this placard on the rear of the manufactured home being moved. Replacement placards shall be issued after a sufficient showing of loss or destruction of the original placard and payment of a fifty dollar (\$50.00) replacement fee.

(2) Notwithstanding the provisions of § 55-4-412, failure to properly display a placard pursuant to the provisions of this subsection is a Class C misdemeanor punishable only by a fine of fifty dollars (\$50.00).

(c) From the fees collected for the issuance of permits under this part, an amount equal to the expenses incurred by department of transportation in administering this program shall be allocated to the highway fund. The remaining balance shall be allocated to the general fund.

SECTION 12. Tennessee Code Annotated, Title 55, Chapter 4, Part 4, is amended by adding the following language as a new, appropriately designated section:

Section 55-4-412.

(a) Any person transporting a mobile home, manufactured house or house trailer, as defined in § 55-4-402, into or through this state, or over any street, road or highway of this state in violation of any provision of this part, commits a Class B misdemeanor punishable as follows:

(1) By a fine of two hundred fifty dollars (\$250) for the first offense in a twelve (12) month period;

(2) By a fine of five hundred dollars (\$500) for the second offense in a twelve (12) month period; and,

(3) By a fine of one thousand dollars (\$1,000) and a ninety (90) day revocation of any driver's license for the third or subsequent offense in a twelve (12) month period.

(b) Within thirty (30) days of conviction for a violation of this section, the clerk of the court of conviction shall give notice of such conviction to the department of transportation.

(c) Upon receipt of notice of a third violation in a twelve (12) month period, the department of transportation shall suspend the subject permit and the permit holder's privilege to obtain other permits under this part for a period of ninety (90) days from the date of receipt of the notice; provided that nothing in this subsection shall be construed as prohibiting multiple permit holders from either using other valid permits not subject to suspension, obtaining supplements for other valid permits not subject to suspension or renewing other valid permits not subject to suspension.

(d) This part may be enforced by the department of safety or local law enforcement agencies. Whenever a person is arrested for any violation of this part, the arresting officer may issue a traffic citation to such person in lieu of arrest, continued custody and the taking of the arrested person before a magistrate in accordance with § 55-10-207(a)(3).

SECTION 13. Tennessee Code Annotated, Title 55, Chapter 4, Part 4, is amended by adding the following language as a new, appropriately designated section:

Section 55-4-413.

(a) The transporter of any mobile home, manufactured home or house trailer subject to the provisions of this part shall be liable for any and all damages resulting from the mobile home, manufactured home or house trailer striking a guardrail, bridge, concrete barrier, overhead structure or other obstruction while traveling on the public roads or highways of the state.

(b)

(1) If during transport, a mobile home, manufactured home or house trailer subject to the provisions of this part blocks traffic on a controlled-access facility as defined by § 54-16-101 because such vehicle cannot proceed due to height, width or length, the transporter thereof shall pay to the department of transportation a road user fee in the amount of one thousand dollars (\$1,000) and the department of transportation shall suspend the subject permit and the permit holder's privilege to obtain other permits under this part for a period of ninety (90) days from the date the department receives notice that the roadway was blocked; provided that nothing in this subsection shall be construed as prohibiting multiple permit holders from either using other valid permits not subject to suspension, obtaining supplements for other valid permits not subject to suspension or renewing other valid permits not subject to suspension. If the same permit holder blocks traffic on a controlled-access roadway a second time within eighteen (18)

months from the date of the first occurrence, the transporter shall pay to the department of transportation the road user fee calculated by the department of transportation using the same formula it uses to calculate incentive payments on road construction projects.

(2) If the transporter fails to pay these fees within thirty (30) days of the date the road is blocked, its privilege to obtain permits under this part shall be suspended until payment is made. The department of transportation is authorized to take legal action to collect this fee.

(c) Any person or entity transporting any mobile home, manufactured home or house trailer subject to the provisions of this part shall, prior to the issuance of a permit pursuant to the provisions of this part, secure and maintain public liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence. Such insurance shall cover the tractor, mobile home, manufactured home or house trailer and any other attachments thereto. Proof of such insurance shall be carried in the vehicle used to transport such mobile home, manufactured home or house trailer and satisfactory proof of such insurance shall be submitted to the department prior to the issuance of a permit pursuant to this part.

(d) Notwithstanding any provision of law to the contrary, the state of Tennessee and any political subdivisions thereof shall be absolutely immune from liability for all damages resulting from a mobile home striking a guardrail, bridge, concrete barrier, overhead structure or other obstruction while traveling on the public roads or highways of the state.

SECTION 14. The department of transportation is directed to compile statistics including, but not limited to, the number of permits issued and the amount of fees collected pursuant to the provision of title 55, chapter 4, part 4, for the six (6) month period immediately preceding the effective date of this act and the six (6) month period immediately following the effective date of this act. The department may gather other information deemed necessary for a complete and accurate analysis of the significance of this act. Such statistical and other information shall be presented to the chairpersons of the senate and house finance and transportation committees no later than April 15, 2003.

SECTION 15. Tennessee Code Annotated, Section 55-10-207(a), as amended by Chapter 648 of the Public Acts of 2002, is amended by adding the following language as a new, appropriately designated subdivision:

(3) Whenever a person is arrested for a violation of any provision of chapter 4, part 4 of this title that is punishable as a misdemeanor, the arresting officer may issue a traffic citation to such person in lieu of arrest, continued custody and the taking of the arrested person before a magistrate.

SECTION 16. Tennessee Code Annotated, Section 55-10-207(d), as amended by Chapter 648 of the Public Acts of 2002, is amended by deleting the language "§ 55-12-139." and by substituting instead the language "§ 55-12-139 or chapter 4, part 4 of this title."

SECTION 17. For the purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect October 1, 2002, the public welfare requiring it.

PASSED: May 22, 2002


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this day of 2002

DON SUNDQUIST, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had House Bill No.2693r in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.